

Written Testimony of David Kelman
In Favor of HB5536
Before the Judiciary Committee
March 29, 2012
10:00AM

Dear Members of the Judiciary Committee:

I reside in a condo in West Hartford, am a former condo association board member and a present condo association board candidate. I have served as a volunteer for the State of Connecticut Attorney General's Office in the Consumer Assistance Unit for five years, and am member of the Steering Committee for the Connecticut Condo Owners Coalition (CCOC), an all-volunteer group consisting of hundreds of condo owners from over 100 cities and towns across our state.

In January 2012, CCOC surveyed hundreds of condo owners, both members and non-members. The feedback from survey respondents documents the problems that exist in many common interest communities. The lack of enforcement of condo laws has negatively impacted the quality of condo owner living experiences. In a number of associations, the democratic process is broken. Owners describe, in some cases, that property managers and boards, who they rely on to maintain their property values and share association records, are not doing so even when requested in writing, despite recent laws with good intentions. Some frustrated owners are selling their condos and moving out of state because the situation is so unbearable for them. Approximately one quarter million Connecticut condo owners are not treated as equal citizens and do not receive the same assistance from state agencies as other consumers receive in our State. It is perhaps shocking to note that renters in condos have more rights than condo owners themselves.

I am in **FAVOR** HB5536, the Community Association Manager Certification bill, but **wlth changes**. The bill needs more teeth. Given the extent of financial responsibility a property manager has overseeing millions of dollars for various community associations, and in light of recent news articles in the North Haven Citizen, Fairfield Minuteman and CTWatchDog.com regarding property manager misconduct and fraud involving, in some cases, very experienced property managers, who have stolen over \$100,000 combined from condo associations in Meriden, North Haven, Branford and Fairfield, I feel mandatory background checks for all property managers must be part of this bill, along with stiffer penalties for misconduct and non-compliance, should be a requirement of certification. Posting the background check records on the Department of Consumer Protection's website should also be mandated as part of this bill so unit owners can have visibility to property manager criminal

records. I refer you to Public Act #11-50, Section 11, Subsection (b) (2) in our state's banking laws as a precedent to establishing background checks. I urge that all property managers who are paid regardless if they are outsourced managers or internal employees should be subject to the same background checks. Additionally, I would like to see all cases involving property manager misconduct, fraud and criminal history of property managers posted online on the Department of Consumer Protection's website for easy access by the public. Transparency is good for protecting condo owners and may lessen misconduct.

Recently, I asked my property manager to email me an electronic list of the names and addresses of all the members of my association. The property manager told me he does not have a list electronically, yet he carries a laptop computer with him to all board meetings. I cannot afford an attorney to chase basic information and records that should be readily available to me electronically. I believe to maintain certification, property managers should be mandated by law to provide to owners upon request a certain amount of electronic information per year free of charge by email when the records are maintained electronically. I would like to see this bill mandate providing owners with a copy of the property manager's contract so owners, who are paying the property manager's salary, can identify whether or not a property manager is breaking the law or not fulfilling his/her contract. It seems to me this would help owners in determining if their complaints to the Department of Consumer Protection about property managers is indeed under the department's jurisdiction and thus subject to further investigation and mediation. This connects to the education piece I have heard some Judiciary Committee members talk about.

I was told by my property manager that I cannot file an insurance claim with our association's insurance carrier for a loss resulting from association negligence because of a failed drain system which had not been properly maintained for years, and has been documented in emails and photos. I was told I would be fined \$25 for contacting the agent. To me, this is an unreasonable rule, and the property manager condoned the rule.. When I asked for a written grievance procedure or how to make an insurance claim regardless whether the loss is covered by insurance or not, the property manager refused to provide me with the information, or even acknowledge no such written procedures exist.

When a condo board is acting unlawfully, unethically or unreasonably, I would expect the property manager to step in and inform the board and owners in attendance of applicable laws and best practices. I feel this should be a requirement of any training, in addition to sensitivity training and training in customer service. Training and certification without a reporting mechanism that is easily visible online to the public to ensure compliance should be added to this bill. I would like to see this bill also include a clear, written grievance procedure as to how condo owners are to file complaints to the Department of Consumer Protection about property managers, and what

types of situations DCP regulates posted online as well.. HB5536 should mandate that a property manager must report if an association is acting unlawfully.

There is additional written testimony online for your review. Some members of the Connecticut Condo Owners Coalition were not able to attend this public hearing and sent in written testimony. I ask that you kindly read all the online testimony from condo owners and to fully to consider the testimony of all unit owners who have faced hardships in their communities, and to establish laws to better protect owners in common interest communities and increase the enforceability of existing and new condo laws.

I would like to point out in comparing the 2010-2011 Annual Report, the Attorney General's Office refers to its Volunteer Program. There is no reference to volunteers in the Department of Consumer Protection's 2010-2011 Annual Report. I am not sure if DCP has any volunteers. I would like to see the Dept of Consumer Protection establish a Volunteer Program to help more effectively process condo owner complaints it receives regarding property managers. It can be done quite easily and at virtually no cost. My online testimony includes a list of condo owner complaints to DCP from September 2011 to January 2012. Many of the cases show they are closed the same day. I wonder if they were ever looked into. My feeling is that volunteers could serve as mediators as they do in the Attorney General's Consumer Assistance Unit reporting to attorneys to help facilitate a resolution. All mediation is done by phone and fax, no in person meetings.

I feel it would help to have one set of laws governing in plain English governing common interest communities regardless of when the association was built and tie Community Association Manager Statutes into the Common Interest Ownership Act.

Thank you for your consideration.

Sincerely,

David Kelman